

REMARKS

The Office Action dated June 3, 2005 has been reviewed and carefully considered. Claims 1-17 remain pending in this case, claims 1, 3, 7, 12 and 15 remaining the independent claims. The Examiner's allowance of claims 3-17 is appreciated. Reconsideration of the above-identified application in view of the following remarks is respectfully requested.

Grounds of Rejection of the Claims

Claim 1 stands rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 6,148,197 to Bridges et al. ("Bridges") in view of U.S. Patent No. 4,028,500 to McClure et al. ("McClure").

Claim 2 stands rejected under 35 U.S.C. 103(a) as unpatentable over Bridges in view of U.S. Patent No. 6,456,839 to Chow et al. ("Chow").

Presumably, the Office Action regards the base claim 1 as also being unpatentable over Bridges in view of Chow.

Traversal of Grounds of Rejection

Claim 1 recites:

responsive to the determination of deviation, informing, by the portable radio telephone, to a mobile switching center of said determination of deviation.

Support for the amendment of claim 1 is found in the specification (e.g., page 2, lines 4-11; page 4, lines 11-17).

Bridges fails to disclose or suggest this feature of the present claim 1.

FIG. 3 in Bridges shows a determination of deviation (S.6: NO branch), but that determination results merely in an internal search by the mobile phone (S.10) and in the making of a subsequent internally-made decision (S.12) as to whether the current carrier is preferred. Depending on the outcome of the decision, the mobile terminal either remains with its current carrier or obtains service from a band it identifies from another internal search. No informing occurs to a message switching center (MSC) of the determination of deviation responsive to that determination.

Perhaps, the Office Action envisions that an additional box be placed in Bridges FIG. 3 between S.6 and S.10 specifying that the mobile terminal informs the MSC of the determination of deviation so that the MSC can appropriately bill the subscriber. Such a suggestion would be ill-founded, for a number of reasons.

Firstly, the intelligent roaming process of Bridges FIG. 3 is performed only upon initialization of the mobile terminal (S.2).

Implementing this billing control function in the mobile phone, as the Office Action suggest, would have left open the possibility that user equipment might be fraudulently manipulated to avoid detecting deviation from the home zone, to thereby

lower billing charges to the subscriber.

Also, the Bridges phone does not initialize during a phone call from a phone that travels into or out of the home zone during the call, i.e., Bridges makes no disclosure or suggestion of the phone suddenly initializing in the middle of a phone conversation involving a user moving into or out of his or her home zone.

Consequently, in the Bridges/McClure or Bridges/Chow embodiment the Office Action suggests, the mobile subscriber could avoid the higher billing rate outside the home zone by starting the phone conversation within the home zone.

As set forth above, Bridges fail to disclose or suggest that the determination of phone location in FIG. 3 is in any way related to the billing function.

In an alternative approach, the Office Action, while acknowledging that Bridges fails to disclose or suggest the informing step of claim 1 (Office Action, page 4, first sentence), suggests that McClure makes up the difference in manner which, presumably, may be independent of billing considerations, although the Office Action does not say.

McClure discloses a portable telephone user determining, during a phone conversation, that reception is unacceptable. The user may then, by means of the phone keyset 306, make a zone change (ZC) request which automatically causes a zone change message to be transmitted by the phone. Accordingly, the McClure phone user may be

assisting hand-off to another base station ("Background of the Invention," second paragraph), to improve reception. In particular, to improve phone reception, the McClure user, by indicating that reception from the currently-serving base station is unacceptable, may assist the infrastructure in potentially initiating a handoff. The handoff would occur if the infrastructure then decides that another base station would provide improved reception.

It is unclear how McClure applies to Bridges. More specifically, it is unclear to the applicant what not being in your Bridges home market area, or deciding you want to search for a preferred wireless carrier, has to do with quality level of phone reception.

The "Response to Arguments" section of the Office Action suggests that, upon initialization of the Bridges portable radio phone, the McClure zone change key "remedies" Bridge's failure to notify the MSC of "said determination" "by the portable radio telephone" of "whether the portable radio telephone deviates from the home zone."

The Office Action accordingly notes that, upon initialization, the Bridges phone determines either deviation or lack of deviation.

However,

1) this determination is a very poor indicator of whether or not reception is currently unsatisfactory; and

2) a decision that reception is currently unsatisfactory is a very poor indicator of "whether the portable radio telephone deviates from the home zone."

For example, a subscriber currently located in his or her home zone may experience poor reception. This could result from locally situated signaling that interferes with the subscriber's signal. Another cause could be topographical features, including buildings or trucks, which block an incoming signal at the subscriber's current location. Weather conditions can also cause poor reception. Any of these factors could be at work, whether or not the subscriber is currently located within or outside the home zone.

The Bridges home market area includes "many" base stations (col. 1, lines 29-30). The Bridges portable phone detects, upon initialization, whether it is in its home market area in order to decide whether to: a) stay with its current carrier, or b) search for a preferred wireless carrier. This decision may be governed by "beneficial rates" or the availability of a technical feature such as Short Message Service (SMS) (col. 4, lines 3-4, 29-30).

It is, for example, unclear to the present applicant how the McClure handoff procedure would have suggested modification of Bridges. Even if the mobile subscriber were to push the zone change key when the phone is initializing, or if the phone were to sense bad reception automatically, this would indicate, at best, currently

poor reception at this particular initialization.

It is unclear in what sense Bridges/McClure could be construed to feature, "responsive to the determination of deviation, informing, by the portable radio telephone, to a mobile switching center of said determination of deviation." Presumably, any informing in Bridges/McClure would be responsive to a determination or sensing of bad reception. The applicant further presumes, for example, that the proposed Bridges/McClure embodiment would inform the MSC only when reception was bad, regardless of what the determination is on deviation from the home zone. It is therefore unclear by what reasoning, the Bridges/McClure informing can fairly be said to be "responsive to the determination of deviation."

The Office Action appears to construe the phrase "responsive to the determination of deviation" as superfluous in claim 1. This would amount to a rewriting of claim 1 by the Examiner.

In short, the Bridges/McClure "informing" would not be "responsive to the determination of deviation;" instead, it would, at best, be responsive to a determination or sensing of poor reception. Also, as set forth above, Bridges/McClure would invite fraudulent manipulation of subscriber phones to thwart the billing function, and would not afford a complete billing function.

In particular, it is unclear how, and by what motivation, Bridges can

reasonably be seen as modified by McClure to feature:

determining, by the portable radio telephone, whether the portable radio telephone deviates from the home zone to make a determination of either deviation or non-deviation from the home zone; and, responsive to the determination of deviation, informing, by the portable radio telephone, to a mobile switching center of said determination of deviation

For at least all of the foregoing reasons, the references the Office Action cites, alone or in combination, fail to anticipate or render obvious the present invention as recited in claim 1.

Chow discloses billing at a higher rate when the user travels outside both the home and subscribed-to visitor zones, but, Chow does not disclose a portable phone determining that it has deviated from a home zone. Instead, Chow discloses the mobile wireless infrastructure making a determination that a portable phone has traveled from a home zone to a subscribed-to visiting zone (col. 16, lines 55-66).

As discussed above, it is unclear how the Chow billing feature could reasonably be seen as suggesting modification of the Bridges FIG. 3 phone-initialization-launched carrier-selection process.

In particular, it is unclear to the applicant how, and by what motivation, the Office Action envisions Bridges modified by Chow to feature:

determining, by the portable radio telephone, whether the portable radio telephone deviates from the home zone to make a determination of either

deviation or non-deviation from the home zone; and,
responsive to the determination of deviation, informing, by the portable
radio telephone, to a mobile switching center of said determination of
deviation

For at least all of the above reasons, the references the Office Action cites,
alone or in combination, fail to anticipate or render obvious the present invention as
recited in either claim 1 or its dependent claim 2. Reconsideration and withdrawal of the
rejection is respectfully requested.

New claim 18 finds support in the specification (e.g., page 9, lines 13-15).

New claims 19 and 20 find support in the specification (e.g., page 4, lines
11-17; page 11, lines 8-12).

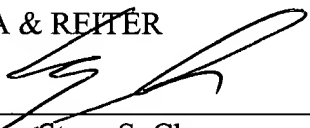
Amendment
Serial No. 09/632,995

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In view of the foregoing amendments and remarks, it is believed that this application is now in condition for allowance. The Examiner is invited to contact the undersigned in the event of any perceived outstanding issues so that passage of the case to issue can be effected without the need for a further Office Action.

Respectfully submitted,

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